IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CRIMINAL APPELLATE JURISDICTION

CRIMINAL APPEAL NO. 810 OF 2000

Madhukar Ganesh Jadhav,]
Life Convict Prisoner No.C-11600,]
At present in Yerawada Central Prison,]
Pune – 411 006.] .. Appellant

Versus

The State of Maharashtra,]
(Vishrautwadi Police Station).] .. Respondents

Ms. Daksha M. Shah, Advocate appointed for the appellant/accused.

Mrs. U.V. Kejriwal, A.P.P., for the State.

CORAM: V.G. PALSHIKAR &
ANOOP V. MOHTA, JJ.

DATED: 29TH SEPTEMBER, 2004.

ORAL JUDGMENT: *[Per Anoop V. Mohta, J.]*

1. This is an Appeal filed by the appellant-accused against the judgment and order dated 15th September, 2000, by the Additional Sessions Judge, Pune, whereby, he has been convicted for the offence

punishable under Section 302 of the Indian Penal Code and sentenced to suffer rigorous imprisonment for life.

2. The appellant-accused was tried and convicted for assaulting one Nandansingh with a *koyta* in the early hours of 27th January, 2000, in hotel "Mohur" at Dighie, Pune. The deceased Nandansingh was the main cook in the said hotel. The accused, along with other four waiters, was working in the said hotel run by the complainant PW1 - Satish Manohar Kamatkar. On 26th January, 2000, the hotel was closed. The deceased, the appellant and the other waiters used to sleep in the hall of the hotel. There was a television set in the said hall. On 27th January, 2000, at about 3.00 a.m. in the morning, the appellant Madhukar suddenly started giving blows with *koyta* on the various vital parts of the deceased Nandansingh who was fast asleep. The other waiters got up and witnessed the incident. They were all frightened and, therefore, they came out of the hotel and waited outside till 5.30 a.m. At about 5.30 a.m., PW-4 Ramzan Rafiq Shaikh and PW2 – Ulhas Shankar Raul went to Datta Nagar and approached PW5 - Mrs. Rekha Ananda Ghule, who opened the door of her house and permitted them to make a telephone call. The Hotel Manager

Chandrashekar More, after receiving this call and information, reached the spot and found the dead body of Nandansingh lying in a pool of blood. The accused was not on the spot. Satish Kumar and Chandrashekar went to Alandi Road Police Chowky where they found the accused with blood stained *koyta* in his hand. His clothes were also stained with blood. The accused, on enquiry, told Satish that deceased Nandansingh used to tease him by saying that his body has been suffering from leprosy and AIDS, therefore, he got annoyed with the deceased. There used to be a regular quarrel between them for the same. Accused, therefore, planned to kill the deceased and accordingly, concealed the *koyta* in the room where they all used to sleep. Accordingly, as planned, he killed Nandansingh and came voluntarily to the Police Chowky. The FIR (Exhibit-12) was lodged by Shri Kamatkar in the Police Chowky. The offence was registered and further investigation proceeded. The Police attached the blood stained clothes of the accused and the *koyta* with blood stains on it. They recorded the Inquest Panchanama of the dead body of Nandansingh. The Spot Panchanama was also recorded. The blood samples of the spot were collected and the statements were recorded. The body was sent to Sassoon Hospital for the post mortem. The clothes of the deceased were

also seized and sent for the Chemical Analyzer's Report. After completion of the investigation, the accused was charge-sheeted. The accused denied the charges. The prosecution has examined 8 witnesses. No defence witness was examined. The learned Judge, after considering the evidence, as well as, the material on the record, has convicted the accused. Therefore, this Appeal against the order of conviction.

3. We have heard the learned Advocate appearing for the accused and the learned A.P.P. for the State. We have also perused the record and noted the contentions, as raised in the Memo of Appeal, as well as, the oral submissions. After re-appreciating the material on the record, including the reasoning given by the learned Sessions Judge, we are of the view that the order of the conviction and imposition of sentence is within the framework of law and record and, therefore, we are not interfering with the impugned judgment and order.

4. The following material and reasoning are sufficient to maintain the order of conviction and sentence.

(a) The Inquest Panchanama shows that the deceased Nandansingh had been assaulted with great force by a sharp-edged weapon and he was killed. PW6 – Dr. Shrikant Suresh Chandekar deposed that there were 24 injuries on the body of the deceased, including 3 internal injuries. All these injuries have been proved as mentioned in the Post Mortem Notes (Exhibit-19) by Dr. Shrikant. He further deposed that all the above injuries were ante mortem and the death was caused due to shock due to multiple injuries. These injuries were sufficient in the ordinary course of nature, to cause death. He also deposed that the injuries found on the body of Nandansingh were possible by the weapon i.e. *Koyta* (article 5). Therefore, this evidence clearly proved beyond reasonable doubt that the deceased succumbed to these vital injuries. Therefore, it was rightly held by the Additional Sessions Judge that the death of Madansingh was homicidal.

(b) The blood stained clothes of the accused were seized in the Police Station on the same date. The prosecution witness have proved and identified the articles Nos.8, 9 and 10. The *koyta* (article 5) was also recovered and identified. The Spot Panchanama (Exhibit-20), as well as,

the Inquest Panchanama has been proved. The blood of the accused Madhukar Jadhav belonged to group “O” as per the Chemical Analyzer's Report (Exhibit-7). The blood samples collected from the spot, as well as, on the articles shows blood group “B”. The blood stained clothes of the accused (articles 9 & 10) were having blood stains of group “B”, which was the blood group of the deceased. The *koyta* (article 5) was also found having blood of group “B”.

(c) The prosecution witnesses PW2 – Ulhas Raul and PW4 – Ramzan Shaikh have been relied upon by the learned Additional Sessions Judge, apart from other evidence, and rightly convicted the accused. We have also gone through the testimony of these two witnesses along with the testimony of PW1 – Satish Kamatkar and PW3 – Chandrashekhar, the Hotel Manager. The testimony of these witnesses has remained undisturbed. The defence was unable to extract anything from these witnesses in their favour. PW1 – Satish deposed about the regular quarrel between the appellant and the deceased in reference to some serious ailments. He identified the *koyta* (article 5) by which the accused had assaulted the deceased Nandansingh. This witness has also deposed the

account of the incident wherein the accused had given blows after blows, with the *koyta* to the deceased Nandansingh who was sleeping at the relevant time. He further deposed that he had gone with Ramzan Shaikh for giving information to the Hotel owner. This witness is further corroborated by PW4 - Ramzan Shaikh, who also deposed that after hearing the shouts, they got up and saw the accused assaulting Nandansingh with the *koyta* on various parts of his body. The light in the hall was on. As they were frightened, they went out of the hall immediately. The incident took place at about 3.00 a.m. He further deposed that he, along with Ulhas, went to the construction site of B.U. Bhandari to phone their master, but he could not phone from that place as no one had allowed them to use the telephone. Lastly, they approached PW5 – Rekha Ghule and with her permission, they phoned and reported the incident to PW1 - Satish Kamatkar. They returned back to the hotel and found Nandansingh in a pool of blood. He also identified the *koyta* used by the accused. He further deposed in the cross-examination that he had seen the accused face to face while he was assaulting Nandansingh. The accused was abusing simultaneously while assaulting Nandansingh

with the *koyta*. This witness also remained intact in the cross-examination. These two witnesses, therefore, have supported the prosecution case that the appellant has committed the brutal murder of the deceased Nandansingh.

(d) PW3 – Chandrashekhar and PW5 – Smt. Rekha Ghule also supported the prosecution case to link the circumstances, as narrated above. PW5 – Smt. Rekha deposed that PW4 - Ramzan Shaikh telephoned his master and narrated the incident. PW3 – Chandrashekhar has also deposed that they saw Nandansingh in a pool of blood on 27th January, 2000, and, on inquiry, the other witnesses told them that the accused Madhukar had assaulted Nandansingh with a *koyta*. Thereafter, Chandrashekhar and Satish Kamatkar went to Alandi Road Police Station. The accused was found in the Police Chowky with blood stained pant and shirt. On inquiry, the accused admitted that he had killed Nandansingh because he used to tease him. He also identified the clothes of the accused which he was wearing on 27th January, 2000. This corroborative evidence completes the chain of the events, which leads to only one conclusion that the appellant, and no one else, had committed the murder

of Nandansingh.

5. The extra-judicial confession made by the accused to these witnesses also cannot be overlooked. The appellant has confessed, as narrated by PW3-Chandrashekhar, his guilt to his master. The accused, in the presence of PW7 – Mahadeo Laxman More, also confessed before the Police that he had committed the murder with the *koyta*. Even if we take this as a confession made before the Police, the extra-judicial statement, as referred above, as an additional chain of evidence, corroborates the above evidence.

6. Therefore, it is proved beyond reasonable doubt, that the appellant, intentionally knowing fully the consequences and when the deceased was sleeping, inflicted more than 24 injuries which includes the vital injuries, which resulted into the death of the deceased on the spot. The appellant, therefore, has committed the offence punishable under Section 302 of the Indian Penal Code.

7. There are no mitigating circumstances pointed out to reduce the

punishment, as imposed. On the contrary, as recorded by the learned Additional Sessions Judge, the accused insisted for capital punishment whereas the counsel for the accused submitted for life-imprisonment as the age of the accused at the relevant time was 29 years. After considering the reasoning and the nature of events and the attack, we are not inclined to reduce the punishment. There is no merit in the Appeal.

8. In view of the above, the Appeal is dismissed.

9. We quantify the fees to be paid to the Advocate appointed for the appellant at Rs. 750/- for this Appeal.

[V.G. PALSHIKAR, J.]

[ANOOP V. MOHTA, J.]